

# MALACAÑANG

Manila

BY THE PRESIDENT OF THE PHILIPPINES

ADMINISTRATIVE ORDER NO. 21

## IMPOSING THE PENALTY OF SUSPENSION FOR ONE (1) YEAR WITHOUT PAY ON ASSISTANT PROVINCIAL PROSECUTOR ROGELIO P. CLOSA OF NUEVA ECIIJA

This is an administrative complaint filed by Atty. Felicisimo N. Buazon against Assistant Provincial Prosecutor Rogelio P. Closo of Nueva Ecija for Grave Misconduct and Conduct Unbecoming of a Public Official.

It appears that complainant is the counsel of the accused in Criminal Case No. 3707, entitled "People vs. Felicidad Reyes" before Branch 87, Regional Trial Court, Gapan, Nueva Ecija.

Complainant alleges that on December 5, 1996, after learning that private complainant was represented by only one witness, Reynaldo Diego, he moved for the dismissal of said case, precipitating a heated argument between him and respondent prosecutor. While the presiding judge was going over the records of the case, respondent whispered "Buntalan na lang tayo" to complainant and the latter replied "Bahala ka". Respondent then tried to attack complainant from behind but complainant was able to ward off his fist blows. The court threatened to hold them in contempt should they persist in their actuations.

During the second call of the case, complainant reiterated his motion to dismiss the criminal case, which made respondent angry. After the hearing, when complainant was about to leave the courtroom, respondent challenged complainant to a fistfight. Outside the courtroom, respondent waited. Upon complainant's exit, respondent attacked and assaulted him with fist blows. To prevent complainant from parrying the blows of respondent, a driver-bodyguard of respondent held the hands of complainant. Respondents then hit the face and lower left breast of complainant in the presence of onlookers who tried to pacify the parties. After the mauling incident, complainant went to the Gapan Police Station to report the incident where respondent followed him and challenged him to a fight.

Complainant then submitted himself to a medical examination before Dr. Paquito Alarilla and then to Dr. Manalo P. Hernal, Jr. Dr. Hernal's physical examination showed the following lesions, to wit: a) hematoma and abrasions on left zygomatic area; and (b) hematoma and abrasion on the left inframammary area. Dr. Hernal prepared a medical certificate containing the said findings and stating that the injuries will heal within four (4) weeks time, barring unforeseen complications. On the other hand, Dr. Alarilla, who was presented by respondent, found the following observations, to wit: hematoma left face, no other physical findings noted, three to five days healing without varying complication.



During the formal investigation conducted by the Office of the Regional State Prosecutor, Region III, respondent denied the accusations, stating that when he objected to the motion to dismiss, complainant provoked him by uttering uncalled for remarks and attributing the delay in the disposition of the case to the prosecution and that he did not hit complainant in the courtroom. However, he admitted that after the hearing, he hit complainant with his left hand outside the courtroom.

Upon review, the Secretary of Justice found respondent prosecutor liable for Simple Misconduct only and recommended that the penalty of one (1) month suspension without pay be imposed upon him.

While we agree with the Secretary of Justice's finding of guilt, a penalty higher than what is recommended should be imposed under the circumstances.

Concededly, complainant suffered physical injuries in the hands of respondent, per the medical certificates issued by Dr. Alarilla, a witness for the respondent, and Dr. Hernal, Jr., a witness for the complainant, although the extent of injuries varied. Considering the physical condition of complainant Buazon, it is highly improbable that he could have intentionally assaulted respondent. In fact, during the investigation of the administrative case, complainant was always assisted by a companion and had difficulty in walking and breathing whenever his emphysema would attack. Complainant had to be assisted by Mrs. Felicidad Reyes and her husband in going out. Complainant is 72 years old, 5'4 in height and weighs 113 lbs, while respondent Prosecutor Closa is 57 years old, stands 5'6 in height and weighs 134 lbs. Complainant is a diabetic and a COPD predominant emphysema patient who is also suffering from hypertension, while respondent is suffering from diabetes.

I also find the records bereft of any proof that respondent suffered any injury inflicted by complainant during the alleged fistfight outside the courtroom of RTC-Branch 87, Gapan, Nueva Ecija. Respondent's allegation that complainant intentionally confronted him cannot be given credence since, as alleged by witnesses of both parties, there was no other way for complainant to pass except through where respondent was standing.

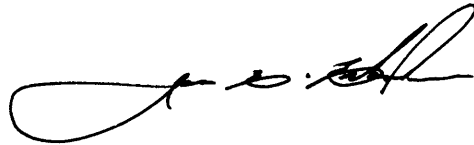
We agree that while complainant's insistence to move for the dismissal of Criminal Case No. 3707, coupled with uncalled for remarks attributing the delay of the case to the prosecution, may have irked respondent, the same cannot be considered as sufficient provocation, for when an act of aggression is in response to an insult, affront or threat, it cannot be considered as a defense but only as a punishment inflicted on the author of the provocation. In such a case, it can be considered as a mitigating circumstance but never a reason for exemption. (Criminal Law, Kapunan and Faylona, 1993 Ed. P. 63. citing U.S. vs. Carrero, 9 Phil. 544, 546).



The act, however, of respondent, who is a lawyer, a public prosecutor and an officer of the court, of mauling complainant just outside of the courtroom is indeed condemnable. The fact that the driver of respondent held the hands of complainant makes it all the more reprehensible.

WHEREFORE, premises considered, Assistant Provincial Prosecutor Rogelio P. Closa of Nueva Ecija is hereby found guilty of misconduct and conduct unbecoming of a public official and suspended for a period of one (1) year without pay, with a stern warning that a repetition of the same or similar offense in the future will be dealt with more severely.

Done in the City of Manila, this 29<sup>th</sup> day of SEPT in the year of our Lord, nineteen hundred and ninety eight.



By the President:



**RONALDO B. ZAMORA**  
Executive Secretary



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